

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 120 - SB 1316

February 13, 2015

SUMMARY OF BILL: Creates a new Class C felony for aggravated vehicular assault and imposes a fine between \$5,000 and \$15,000.

ESTIMATED FISCAL IMPACT:

Increase State Revenue – Not Significant

**Increase State Expenditures – \$13,800/One-Time/General Fund
\$200,900/Incarceration***

Assumptions:

- Currently, vehicular assault is a Class D felony. The bill creates a Class C felony for aggravated vehicular assault if someone commits vehicular assault and has a BAC of 0.2 or more and has a prior conviction for driving under the influence or for habitual motor vehicle offender law; or commits vehicular assault and has two or more prior convictions for driving under the influence, habitual motor vehicle offender law, vehicular assault, or vehicular homicide.
- An offender under the bill would not only be sentenced under the Class C felony range but also be prohibited from driving a vehicle in Tennessee (the length of this prohibition depends upon whether the most recent offense is the offenders first, second, third, fourth, or subsequent offense of aggravated vehicular assault).
- According to the Department of Correction (DOC), there has been an average of 35.4 admissions for vehicular assault over the last 10 years. The DOC assumes 25 percent, or 9 of these admissions, will be convicted of aggravated vehicular assault under the bill.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will account for one (9 x 0.1178) additional admission for a total of 10 offenders (9 + 1).
- According to statistics from the DOC, the average time served for vehicular assault from 2004-2014 was 2.13 years, which is 0.09 years longer than the average Class D felony (2.13 years – 2.04 years, average time served for Class D felony). It is assumed that, on average, offenders committing aggravated vehicular assault will serve more time than the average Class C felony offender, who currently serves an average of 3.18 years. Assuming aggravated vehicular assault offenders will serve the same percentage increase, four percent ($0.09 / 2.04 = 0.044$), the average time served for aggravated

vehicular assault will be 3.32 years (3.18 years, the average time served for a Class C felony, x 1.044 = 3.32 years).

- According to the DOC, 32.23 percent of offenders will re-offend within one year of their release. A recidivism discount of 32.23 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this bill. It is assumed that the re-offender would have committed the subsequent offense at the same offense level as under current law (10 offenders x 0.3223 = 3 offenders).
- According to the DOC, the average operating cost per offender per day for calendar year 2015 is \$66.03.
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 7 offenders [10 offenders – 3 offenders (recidivism discount)] serving an additional 1.19 years (3.32 years, average time served for aggravated vehicular assault – 2.13 years, average time served for vehicular assault). The operating cost for increasing the average sentence by 1.19 years (434.65 days) is \$28,700 (434.65 x \$66.03). The total operating cost for seven offenders is \$200,900 (\$28,699.94 x 7 offenders).
- According to the Department of Safety and Homeland Security, computer programming changes would be necessary to the existing system to capture these convictions as aggravated vehicular assault rather than vehicular assault and to establish this new violation as a mandatory revocation of an offender's driving privilege. These programming changes, by the existing contract vendor, would result in a one-time cost of \$13,847.
- The additional number of cases generated by the proposed bill will not significantly impact the caseloads for the District Attorneys General Conference or the District Public Defenders Conference. Any additional cost can be accommodated within existing resources without an increased appropriation or reduced reversion.
- Any impact on caseloads for the state trial courts can be accommodated within existing judicial resources without an increased appropriation or reduced reversion.
- Based on the Fiscal Review Committee's 2008 study of incarceration costs and fines, collection of fines for felony offenses is negligible. There will not be a significant increase in revenue as a result of this bill.

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in dark ink, reading "Jeffrey L. Spalding". The signature is written in a cursive, flowing style with a large initial 'J' and a long, sweeping underline.

Jeffrey L. Spalding, Executive Director

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